

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

EDDIE DAN AGUILERA,

Plaintiff,

v.

No. 2:22-cv-00078-DHU-KRS

CITY OF LAS CRUCES,
KEN MIYAGISHIMA,
MIGUEL DOMINGUEZ,
GUILLERMO IBARRA,
JAIME ARROYO, and
CHRISTOPHER GAMEZ,

Defendants.

ORDER REGARDING SERVICE

Plaintiff filed his original Complaint on February 2, 2022. *See* Doc. 1. Plaintiff is proceeding *pro se* and *in forma pauperis* pursuant to 28 U.S.C. § 1915(d). *See* Doc. 6, filed February 7, 2022 (granting Plaintiff's motion to proceed *in forma pauperis*). Section 1915 provides that the “officers of the court shall issue and serve all process ... in [proceedings *in forma pauperis*]”). 28 U.S.C. § 1915(d).

The undersigned notified Plaintiff that Plaintiff's Complaint failed to state a claim, ordered Plaintiff to file an amended complaint and notified Plaintiff that the Court will order service if Plaintiff files an amended complaint that states a claim over which the Court has jurisdiction and also files a motion for service which provides Defendants' addresses. *See* Doc. 6 at 4-5.

Plaintiff filed his Amended Complaint on February 22, 2022. *See* Doc. 7. United States District Judge David H. Urias dismissed some of the claims in the Amended Complaint asserted

in the Amended Complaint, ordered Plaintiff to file a second amended complaint and notified Plaintiff:

The Court will not order service of Summons and Amended Complaint on the unnamed police officers and the unnamed person who accessed his phone at this time because the Court is ordering Plaintiff to file a second amended complaint. The Court will order service if Plaintiff files a second amended complaint that states a claim over which the Court has jurisdiction and provides names and addresses of each Defendant.

Doc. 16 at 4-5, filed March 21, 2022.

Plaintiff filed his Second Amended Complaint on March 29, 2022. *See* Doc. 17. Judge Urias dismissed the claims in the Second Amended Complaint asserted against all Defendants except for Defendant Ibarra and notified Plaintiff:

The Court will not serve Defendant Ibarra at this time because Plaintiff has not provided Defendant Ibarra's address for service. *See* Doc. 16 at 5 (notifying Plaintiff the Court will order service if Plaintiff provides Defendant's address). The Court will order service on Defendant Ibarra if Plaintiff files a motion for service which includes Defendant Ibarra's address.

See Doc. 21, filed May 3, 2022. Plaintiff has not provided the address for the sole remaining Defendant in this case.

IT IS ORDERED that Plaintiff shall, within 21 days of entry of this Order, file a motion for service which provides Defendant Ibarra's address. Failure to timely file the motion with Defendant Ibarra's address may result in dismissal of this case.



UNITED STATES MAGISTRATE JUDGE